

8/2/2021 3:37pm
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MARICOPA COUNTY

Defendants.

ORDER TO PRODUCE PUBLIC RECORDS

On May 19, 2021, Plaintiff American Oversight (“AO”) filed a Verified Complaint and Application for Order to Show Cause under A.R.S. § 39-121.02 against Defendants Karen Fann, Warren Petersen, and the Arizona Senate (“Senate Defendants”) seeking documents known as the “Withheld Records.”¹ The parties then agreed to a schedule to resolve this expedited statutory special action, and further agreed that the Senate Defendants’ motion to dismiss would constitute their response to the Application for Order to Show Cause. The Court heard oral argument on July 7, 2021 on the parties’ submissions.

¹ These records are defined in Paragraph 63 of the Verified Complaint.

1 On July 15, 2021, the Court entered a Minute Entry Order (incorporated herein by
2 reference) in which it rejected the two defenses raised by the Senate Defendants: (1) Arizona's
3 Public Records Law does not apply to records held by agents of public officers and public
4 bodies that perform core government functions, and (2) whether the Senate Defendants
5 complied with the Public Records Law is a nonjusticiable political question. The Court thus
6 held that "any and all documents with a substantial nexus to the audit activities are public
7 records" and further, that:

8 [a]ll documents and communications relating to the planning and execution of the
9 audit, all policies and procedures being used by the agents of the Senate
10 Defendants, and all records disclosing specifically who is paying for and financing
11 this legislative activity as well as precisely how much is being paid are subject to
12 the PRL. Senate Defendants must demand the records from CNI and the
subvendors or invoke the indemnification clause of the contract now that Senate
Defendants are engaged in litigation.

13 Based on the Verified Complaint, Application for Order to Show Cause, and the Court's
14 July 15, 2021 Minute Entry Order, and good cause appearing,

15 IT IS HEREBY ORDERED that the Senate Defendants comply with A.R.S. § 39-121,
16 *et seq.*, and immediately provide AO with access to (or copies of) the Withheld Records.

17 DATED this 2nd day of August, 2021.

18 
19 Honorable Michael W. Kemp